UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

GERARD STEPHAN,

Plaintiff,

-against-

BABYSPORT, LLC and TOMMY HABEEB, CV-07-0478

Defendants

MOTION OF DEFENDANTS BABYSPORT, LLC AND TOMMY HABEEB TO DISMISS, OR IN THE ALTERNATIVE, TO TRANSFER

For the reasons set forth in the attached Memorandum of Law, Defendants BabySport, LLC ("BabySport") and Tommy Habeeb ("Habeeb," collectively, "Defendants") move this Court to dismiss Plaintiff's action, in whole or in part, or to transfer this action to the United States District Court for the Northern District of Texas. Defendants' motion arises out of the fact that Plaintiff has presented no factual or legal basis for the exercise of personal jurisdiction over either Defendant, that venue is improper in this district, that Plaintiff does not have standing to assert the claims recited under the Lanham Act and fails to state a misappropriation claim cognizable under New York common law.

Respectfully submitted,

Kenneth Thomas Emanuelson
Attorney *pro hac vice* for Defendants BabySport, LLC and Tommy Habeeb

CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that, on April 30, 2007, the foregoing document was transmitted via electronic mail to:

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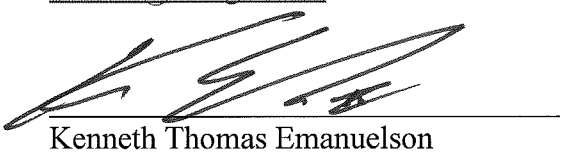

Kenneth Thomas Emanuelson